

DETAILED ACTION

Examiner's Amendment

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this Examiner's Amendment was given in a telephone interview with Mr. Thomas E. Kocovsky, Esq. on 8/6/09.

The application has been amended as follows:

- Please cancel claims 81-90.

Terminal Disclaimer

2. The terminal disclaimer filed on 6/9/09 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on pending Application Serial No. 10/422,474, or beyond the expiration date of the full statutory term under 35 U.S.C. 154-156 and 173 of prior Pat. No. US 7,102,052 as presently shortened by any terminal disclaimer pertaining thereto, has been reviewed and is accepted. The terminal disclaimer has been recorded. The nonstatutory obviousness-type double patenting rejections of 3/9/09 are overcome thereby and are withdrawn.

Allowable Subject Matter

3. Claims 54-80, 91-96, and 98-104 are allowable as written over the prior art and do not suffer from any deficiencies under 35 U.S.C. § 101 or § 112. The following is an examiner's statement of reasons for allowance: regarding independent claims 54, 91, 92 and 94, Grebinski, US 4,867,799 (1989) appears to be the most pertinent reference of record. Grebinski, as

discussed in the 12/5/08 Office Action, discloses the use of H₂O₂ and NH₃ (both gaseous) to treat various objects. However, as Grebinski's H₂O₂ : NH₃ ratio is 1:5, it is clear that Grebinski's main ingredient is NH₃, and that H₂O₂ is but an additive in the prior art process. Independent claims 54 and 94 have been allowed over Grebinski because the H₂O₂ : NH₃ ratio in said claims clearly indicates that H₂O₂ is the main ingredient in the claimed processes, and that NH₃ is but an additive therein, contrary to Grebinski's teachings.

Independent claims 91 and 92 have been allowed over Grebinski because the reference fails to teach or suggest contacting its gaseous treatment mixture with GD-contaminated items (as required by claim 91) or with pathogenic chemical agents (wherein the pathogenic chemical agent would thereby be reduced to <1 wt. % of its original concentration, as in claim 92).

Regarding independent claim 96, the most pertinent prior art of record appears to be Korolev et al., SU 1681860 A1 (1991) ("Korolev"), as elucidated by Jacobs et al., US 5,667,753 (1997) ("Jacobs"). Korolev teaches the decontamination of bacteria and/or spores on various surfaces, by treatment with H₂O₂ vapor generated by heating NH₄F/H₂O₂ to 70-86 deg. C. *See* Korolev at Derwent English Abstract. As pointed out by Jacobs, NH₄F decomposes to NH₃ and HF above 40 deg. C, thus giving rise to a mixture containing strong oxidant and a once-liquid alkaline compound, both in vapor form. *See* Jacobs at col. 3, ln. 16-31. However, independent claim 96 has been allowed because neither Korolev nor Jacobs states that Korolev's decontamination vapor includes a mist, fog, or like material formed by atomizing a liquid alkaline compound as claimed. Indeed, an oral translation of Korolev by I. Knizhnik, USPTO translator, revealed Korolev's teaching that its vaporous mixture is employed specifically to treat

surfaces not easily decontaminated by sprays or spraying (i.e., by an atomized mist or fog). A full, written translation of Korolev was not deemed necessary, given the foregoing.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL BERNS whose telephone number is (571)270-5839. The examiner can normally be reached on Monday thru Thursday, 9AM-6PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached at (571)272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B./ August 6, 2009
Examiner, Art Unit 1793

/Timothy C Vanoy/
Primary Examiner, Art Unit 1793